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WLF Urges Ninth Circuit to Affirm Decertification of Sprawling No-Injury Class (*In re Apple iPhone Antitrust Litigation*)

“Rule 23 demands proof of classwide injury, not promises to sort the uninjured later.”

— Cory Andrews, WLF General Counsel & Vice President of Litigation

WASHINGTON, DC—Washington Legal Foundation (WLF) today urged the U.S. Court of Appeals for the Ninth Circuit to affirm the district court’s order decertifying a consumer class against Apple. WLF contends that the plaintiffs cannot prove antitrust injury with common evidence, as their own model leaves more than ten million uninjured members in a class of nearly 200 million.

The case arises from a long-running antitrust suit claiming Apple monopolized the iPhone app market by barring purchases outside its App Store. Plaintiffs alleged that developers passed on higher commissions as elevated prices for apps and in-app content. The district court initially certified a class of Apple account holders who spent ten dollars or more, but later decertified it after finding that the plaintiffs’ model could not reliably show classwide injury or limit the share of uninjured consumers.

In its amicus brief, WLF argues that antitrust injury is an element of every claim and must be capable of common proof under Rule 23. Plaintiffs’ model itself predicts no net overcharge for entire categories of purchases, and shifting the sorting to post-verdict claims administration would invert the order of proof while abridging Apple’s rights. Certifying a class of this scale would also generate crushing settlement pressure untethered to actual harm and dilute recoveries for those truly injured.

Celebrating its 49th year, WLF is America’s premier public-interest law firm and policy center advocating for free-market principles, limited government, individual liberty, and the rule of law.

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